THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11335 of 2006

09.06.2006

Between:

P. Venkateswarlu ..Petitioner

And

1. The Joint Collector, Krishna, Machilipatnam
and another.

.. Respondents.

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11335 of 2006

ORDER:

This writ petition is directed against an order passed by the 1st respondent-Joint Collector, Krishna District on 2.4.1996 vide proceedings No.Rc.No.B1/135/2006, suspending the kerosene licence of the petitioner pending enquiry into the certain irregularities purported to have been committed by him.

According to the petitioner, though the order was passed on 2.4.2006, no further action was initiated for conducting any enquiry. This means that the authorities have no intention to take any action in the guise of interim suspension of the licence for indefinite time. Apart from that, the action contemplated under Sub Clause (1) of Clause 28 of A.P Petroleum Products (L & R) Order, 1980 has not yet been commenced even though more than 2 months time elapsed. Therefore, it must be deemed that the licence is suspended under Sub Clause 1 (c) of Clause 28 and not under Sub Clause 2 of Clause 28 and as such, the impugned order is liable to be set aside.

I am afraid I cannot agree with the learned counsel for the petitioner. The learned Counsel for the petitioner relied upon a decision reported in **Gummadisetti V. Joint Collector, Khammam**[1] wherein it is held that

> "It is true as contended by the learned counsel for the appellant that unless an action is contemplated or envisaged under sub clause (1) of Clause 28, the licence

> or registration certificate, as the case may be cannot be kept under suspension. An enquiry must be contemplated against the licensee and then alone, an order of suspension could be made in exercise of power under sub-clause (2) of clause 28. But we find it difficult to accept the submission made by the learned counsel for the appellant that first action must be initiated under sub clause (1) of Clause 28 by putting the licensee on notice and only thereafter, an order of suspension could be made in exercise of the power under sub-clause (2) of Clause 28. What is required is contemplation of action against the licensee under sub-clause (1) of Clause 28. An appropriate decision can be taken by the licensing authority simultaneously to take action under sub-clause (1) of Clause 28 and as well as the action under sub-clause (2) of Clause 28."

In view of the above, without expressing any opinion on merits, the 1st respondent is directed to complete the enquiry within three months from the date of receipt of a copy of this order.

The writ petiton is disposed of accordingly. No costs.

09.06.2006

Note:
Issue CC by one week
(B.O)
rkk

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[1] 2004(1) ALD 535 DB